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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,255	08/09/2001	Luis Esteban Prada	9D-DW-19324	1854

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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3677

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/682,255	PRADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carlos Lugo	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,7-10 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) 2,6,11 and 12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-5,7-10 and 22 is/are allowed.
- 6) ☒ Claim(s) 13-17 and 21 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Office Action is in response to applicant's letter filed on February 18, 2003.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 13-16 and 21 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,502,715 to Lundblade.

Regarding claim 21, Lundblade discloses a method to assembly a door latch providing a handle (29) and a handle retained (58). The handle is connected to the handle retainer.

A keeper (30) is slidably coupled to the handle such that the handle rotates in a first direction and the keeper rotates in a second direction opposite to the first direction.

As to claim 13, Lundblade discloses that the handle includes at least one substantially circular projection (62) to frictionally retain the handle.

As to claim 14, Lundblade discloses that the handle (29) is frictionally connected to the handle retainer (58).

As to claim 15, Lundblade discloses that the handle retainer is a substantially circular projection.

As to claim 16, Lundblade discloses door latch assembly comprising a tub assembly (27 and 31) and a door assembly (26) coupled at a first edge to the tub assembly.

The latch assembly comprises a handle (29) and a keeper (30). The handle rotates in a first direction and the keeper rotates in a second direction opposite to the first direction.

Applicant is reminded that where there is physical identity between the subject matter of the claims and the prior art, the label given to the claimed subject matter does not distinguish the invention over the prior art. In re Pearson, 494 F.2d 1399, 1403, 181 USPQ 641, 644 (CCPA 1974); In re Lemin, 326 F.2d 437, 140 USPQ 273 (CCPA 1964).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 17 is rejected** under 35 U.S.C. 103(a) as being unpatentable over 4,502,715 to Lundblade.

Lundblade fails to disclose that the handle comprises a substantially planar surface that is in slidable contact with a planar surface of the keeper. Lundblade discloses that these surfaces are circular.

Applicant is reminded that a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have planar surfaces instead of circular surface because it is a change in the shape that will not affect the contact between the handle and the keeper.

***Allowable Subject Matter***

6. **Claims 1,3-5,7-10 and 22 are allowed.**
7. **Claims 18 and 19 are objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Regarding applicant's arguments that Mercer discloses the invention as claimed in claims 1,20 and 22, the arguments have been fully considered and are persuasive. The rejection to claims 1,20 and 22 has been withdrawn. Claims 1,3-5 and 7-10 are also allowed has depending from claims 1 and 20.
9. The indicated allowability of claims 13-17 and 21 is withdrawn in view of the newly discovered reference(s) to Lundblade (US 4,502,715). Rejections based on the newly cited reference(s) follow.

**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited further show the state of the art with respect to latch assemblies.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo. The examiner phone number is (703)-305-9747. The fax number for correspondence before a final action is (703)-872-9326 and the fax number for correspondence after final action is (703)-872-9327. The email direction of the examiner is carlos.lugo@uspto.gov. The examiner can normally be reached on Monday to Friday from 9:30am to 6:30pm (EST). If the examiner is not available, please leave a message, including the application number and the examiner will answer the message as soon as possible.

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April 16, 2003

William Miller  
Primary